

Amend Sections 423 and 439.2 of the Property Taxes Law to change the date by which the Board is required to publish information used to value certain properties.

Source: Property and Special Taxes Department and Legal Department

Revenue and Taxation Code Section 423 requires assessors to value property that is enforceably restricted under open-space contract or agricultural conservation easement by a specified capitalization of income method. Subdivision (b)(1) of Section 423 requires the Board to announce by September 1 an interest component that is the arithmetic mean of the most recent 5 years of yield rates for long-term United States government bonds as most recently published by the Federal Reserve Board as of each September 1. The Federal Reserve Board publishes the yield rates on a weekly basis each Monday morning for the previous week.

Similarly, Revenue and Taxation Code Section 439.2 requires assessors to value enforceably restricted historical property by a specified capitalization of income method. Subdivisions (b)(1) and (c)(1) require the Board to announce no later than September 1 of the year preceding the assessment an interest component that is equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board. The Federal Housing Finance Board publishes this rate once a month, usually on the last Tuesday of the month.

Since the Federal Reserve Board publishes the yield rates on a weekly basis, to use the "most recently published figures" usually gives staff less than a week to prepare and mail the announcements. The announcement is done via a Letters To Assessors which must first go through an internal review process before it can be released. Staff recommends that the law specify that the interest component to be used be based upon the most recent yield rate published by the Federal Reserve Board "on September 1" rather than the "most recently published" and then give the Board until October 1 to calculate, prepare, and mail the announcement. The time period for calculating the interest components remain the same so the resulting assessment values will not be impacted. The delay of the formal publication of the interest component will give staff a reasonable amount of time to prepare and mail the announcements and will not cause harm since assessors do not need the information to complete their assessments until January 1. Since much of the value calculations are now computerized, the urgency to release this information as early as possible no longer exists.

In addition, subparagraphs (A) through (E) of Section 423(b)(1) provide for the five-year phase implementation (1993-94 through 1997-98) for the open space lands interest component. Since the implementation phase has been completed, these subparagraphs should be deleted.

Section 423 of the Revenue and Taxation Code is amended to read:

423. Except as provided in Sections 423.7 and 423.8, when valuing enforceably restricted open-space land, other than land used for the production of timber for commercial purposes, the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall value these lands by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available the income shall be the fair rent which can be imputed to the land being valued based upon rent actually received for the land by the owner and upon typical rentals received in the area for similar land in similar use, where the owner pays the property tax. Any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which comparable lands have been rented, determined by average rents paid to owners as evidenced by typical land leases in the area, giving recognition to the terms and conditions of the leases and the uses permitted within the leases and within the enforceable restrictions imposed.

(2) Where sufficient rental information is not available, the income shall be that which the land being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the land is enforceably restricted. There shall be a rebuttable presumption that "prudent management" does not include use of the land for a recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to that use.

(3) Notwithstanding any other provision herein, if the parties to an instrument which enforceably restricts the land stipulate therein an amount which constitutes the minimum annual income per acre to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For the purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the land can be expected to yield to an owner-operator annually on the average from any use of the land permitted under the terms by which the land is enforceably restricted, including, but not limited to, that from the production of salt and from typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes, or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. Proceeds from the sale of the land being valued shall not be included in the revenue from the land.

Expenditures shall be any outlay or average annual allocation of money or money's worth that has been charged against the revenue received during the period used in computing that revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the land, interest on funds invested in trees and vines valued as land as provided by Section 429, property taxes, corporation income taxes, or corporation franchise taxes based on income. When the income used is from operating the land being valued or from operating comparable land, amounts shall be excluded from the income to provide a fair return on capital investment in operating assets other than the land, to amortize depreciable property, and to fairly compensate the owner-operator for his operating and managing services.

(b) The capitalization rate to be used in valuing land pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than ~~September~~ October 1 of the year preceding the assessment year which is the arithmetic mean, rounded to the nearest 1/4 percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board as of September 1, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to each of the four immediately preceding assessment years. ~~The interest component defined by this paragraph shall be implemented in phases and shall be:~~

~~(A) For the 1993-94 assessment year, the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, rounded to the nearest 1/4 percent.~~

~~(B) For the 1994-95 assessment year, the arithmetic mean, rounded to the nearest 1/4 percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rate for those bonds, as most recently published by the Federal Reserve Board as of the September 1 immediately prior to the 1993-94 assessment year.~~

~~(C) For the 1995-96 assessment year, the arithmetic mean, rounded to the nearest 1/4 percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to the 1993-94 and 1994-95 assessment years.~~

~~(D) For the 1996-97 assessment year, the arithmetic mean, rounded to the nearest 1/4 percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve~~

~~Board as of each September 1 immediately prior to the 1993-94, 1994-95, and 1995-96 assessment years.~~

~~(E) For the 1997-98 assessment year, and each fiscal year thereafter, the arithmetic mean, rounded to the nearest 1/4 percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board as of September 1, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to the four immediately preceding assessment years.~~

(2) A risk component which shall be a percentage determined on the basis of the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject.

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the land for the assessment year times the assessment ratio. The estimated total tax rate shall be the cumulative rates used to compute the state's reimbursement of local governments for revenues lost on account of homeowners' property tax exemptions in the tax rate area in which the enforceably restricted land is situated.

(4) A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

(c) The value of the land shall be the quotient for the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b).

(d) Unless a party to an instrument which creates an enforceable restriction expressly prohibits such a valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

In determining the 1975 base year value under Article XIII A of the California Constitution for any parcel for comparison, the county may charge a contractholder a fee limited to the reasonable costs of such determination not to exceed twenty dollars (\$20) per parcel.

(e) If the parties to an instrument which creates an enforceable restriction expressly so provide therein, the assessor shall assess those improvements which contribute to the income of land in the manner provided herein. As used in this subdivision "improvements which contribute to the income of the land" shall include, but are not limited to, wells, pumps, pipelines, fences, and structures which are necessary or convenient to the use of the land within the enforceable restrictions imposed.

Section 439.2 of the Revenue and Taxation Code is amended to read:

439.2 When valuing enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value that restricted historical property by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available, the income shall be the fair rent that can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.

(3) If the parties to an instrument that enforceably restricts the property stipulate therein an amount that constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, that the property can be expected to yield to an owner-operator annually on the average from any use of the property permitted under the terms by which the property is enforceably restricted.

Expenditures shall be any outlay or average annual allocation of money or money's worth that can be fairly charged against the revenue expected to be received during the period used in computing the revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the property, property taxes, corporation income taxes, or corporation franchise taxes based on income.

(b) The capitalization rate to be used in valuing owner-occupied single family dwellings pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than ~~September~~ October 1 of the year preceding the assessment year and that was

the yield rate equal to the effective rate on conventional mortgages as ~~determined~~ most recently published by the Federal Housing Finance Board as of September 1, rounded to the nearest $\frac{1}{4}$ percent.

(2) A historical property risk component of 4 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(c) The capitalization rate to be used in valuing all other restricted historical property pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than ~~September~~ October 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as ~~determined~~ most recently published by the Federal Housing Finance Board as of September 1, rounded to the nearest $\frac{1}{4}$ percent.

(2) A historical property risk component of 2 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.